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9

10 IN THE UNITED STATES DISTRICT COURT
11 FOR THE NORTHERN DISTRICT OF CALIFORNIA
12

13 **JOHN HSU,**

14 Plaintiff,

15 v.

16 **CALIFORNIA DEPARTMENT OF TOXIC**
17 **SUBSTANCES CONTROL and JEFFREY WONG,**
18 **in his personal capacity,**

19 Defendants.

Case No.: C08-02586 MHP

**DEFENDANTS' CASE
MANAGEMENT
CONFERENCE STATEMENT**

20 Pursuant to Local Rule 16-9(a), Defendants California Department of Toxic Substances
21 Control ("DTSC") and Jeffrey Wong (hereinafter collectively "Defendants") submit this separate
22 case management statement.

23 Although defense counsel has repeatedly informed Plaintiff pro se in writing that
24 Defendants are exercising their right under Local Rule 16-9(a) to file a separate Statement,
25 Plaintiff pro se has disregarded defense counsel's verbal and written notices and insists that the
26 parties must file a joint statement. It appears Plaintiff pro se is placing reliance on a document
27 that is not part of the Court's orders issued on May 22, 2008. A true copy of said document,
28 which consists of twenty-one pages, is attached hereto as Exhibit A. Defense counsel has

1 verified with the Court's electronic docket and with District Court Judge Marilyn Hall Patel's
2 docket clerk that the Court's May 22nd Orders consist of the following three documents: Order
3 Setting Initial Case Management Conference and ADR Deadlines (1-page document), Standing
4 Order For All Judges of the Northern District of California regarding Contents of Joint Case
5 Management Statement (2-page document), and Chief Judge Marilyn Hall Patel Standing Orders
6 (1-page document). Furthermore, Exhibit A contains references to the local rules which do not
7 coincide with the current Local Rules, and do not accurately identify Judge Patel's current
8 courtroom deputy, as verified with Judge Patel's docket clerk. Although defense counsel has
9 informed Plaintiff pro se of the discrepancy, and repeatedly reminded Plaintiff pro se that
10 Defendants intend to file a separate Case Management Conference statement, Plaintiff continues
11 to state that he is proceeding with filing a "joint" Statement. Thus, any representation of
12 Defendants' position, or the parties "joint" position on matters in Plaintiff's Statement are
13 merely Plaintiff's mis-characterizations and do not reflect Defendants' input or position.

14 1. Jurisdiction and Service:

15 Plaintiff pro se filed a Complaint alleging employment discrimination in violation of Title
16 VII of the Civil Rights Act of 1964 against Defendant DTSC, and speech retaliation in violation
17 of 42 U.S.C. § 1983 against Defendant Wong. Plaintiff also alleges state law breach of contract
18 against Defendant DTSC regarding a settlement agreement they entered into before this Court on
19 August 25, 2003, case nos. C 01-4216 MHP, C 02-2420 MHP.

20 To Defendants' knowledge, there are no other parties that remain to be served at this time.

21 2. Facts:

22 The factual allegations in Plaintiff pro se's Complaint are vague and ambiguous, however it
23 appears that Plaintiff pro se is alleging employment discrimination in violation of Title VII of the
24 Civil Rights Act of 1964 against Defendant DTSC, state law breach of contract against
25 Defendant DTSC, and speech retaliation in violation of 42 U.S.C. § 1983 against Defendant
26 Wong. From the Complaint, it appears that Plaintiff alleges that DTSC has retaliated against him
27 since 1991 for engaging in protected activity because he has filed a complaint about his then-
28 supervisor's scientific misconduct, has filed complaints about employment discrimination, and

1 for preparing research papers allegedly on the job on matters of public concern. From the
2 Complaint, it appears that Plaintiff alleges, among other things, that Defendant DTSC retaliated
3 against him by failing to promote him when the selected candidates had scored higher than
4 Plaintiff during the interview process, issuing him allegedly undeserved negative performance
5 evaluations when Plaintiff failed or resisted completing his assignments as instructed, and for
6 taking steps to terminate his employment when Plaintiff retired from state service. On August
7 25, 2003, Plaintiff and Defendant DTSC entered into a settlement agreement before this Court
8 which included a general release of all Plaintiff's claims to date. It also appears that Plaintiff
9 alleges a state law breach of contract claim against Defendant DTSC for allegedly violating the
10 terms of their August 2003 settlement agreement.

11 3. Legal Issues:

12 Defendants dispute that they discriminated or retaliated against Plaintiff or otherwise
13 violated his rights.

14 4. Motions:

15 Defendants intend to file a dispositive motion in this matter.

16 5. Amendment of Pleadings:

17 At this time, Defendants do not expect to amend its defenses.

18 6. Evidence Preservation:

19 At this time, Defendants are not aware of any evidence preservation issues requiring the
20 Court's attention. Plaintiff pro se has filed several employment claims, including state and
21 administrative appeals that involve the same general set of facts and that are public records.

22 7. Disclosures:

23 On August 7, 2008, the parties met and conferred in-person and agreed to exchange Initial
24 Disclosures by August 21, 2008. Defendants served Plaintiff its Initial Disclosures on August
25 21, 2008. As of the date of this Statement, Plaintiff has failed to timely provide Defendants with
26 his Initial Disclosures. On August 26, 2008, after our agreed-upon deadline, Plaintiff faxed a
27 letter and attached his "draft Joint Case Management Statement," wherein there is a section
28 entitled, "Disclosures." However, because it was listed within a document that Plaintiff referred

1 to as a “draft,” Defendants informed Plaintiff that they had not received his Initial Disclosures as
2 required by Rule 26.

3 8. Discovery:

4 The parties have yet to conduct any discovery. At this time, Defendants anticipates
5 discovery needed on the subject of liability and damages, to be completed 30 days before trial,
6 and request that at this time it not be conducted in phases or be limited to or focused on
7 particular issues.

8 At this time, Defendants estimate completing written discovery by December 2008, and
9 completing depositions by March 2009.

10 Defendants file their separate Rule 26(f) Report concurrently.

11 9. Class Actions:

12 Not applicable.

13 10. Related Cases:

14 Plaintiff filed a Notice of Pendency of Other Action Or Proceeding on August 25, 2008,
15 listing several state and administrative cases. At this time, Defendants are not aware of any
16 related case before another judge of this court.

17 11. Relief:

18 Defendants dispute the existence of liability and damages. If liability is established,
19 Defendants contend that damages should be calculated to reflect that Plaintiff retired from state
20 service and offset by mitigating factors.

21 12. Settlement and ADR:

22 On August 7, 2008, defense counsel met and conferred in-person with Plaintiff pro se and
23 discussed the prospects of settlement, and selecting an ADR process. At this time, early
24 settlement is not possible. Because communication has become increasingly difficult, beginning
25 at the August 7th meeting with Plaintiff pro se and continuing with Plaintiff’s mis-
26 characterizations of that meeting in numerous correspondence following the meeting, Defendants
27 suggest mediation for this case.

1 13. Consent to Magistrate Judge For All Purposes:

2 Defendants do not consent to assignment of a magistrate judge for all purposes.

3 14. Other References:

4 At this time, Defendants believe this case is not suitable for reference to binding arbitration,
5 a special master, or the Judicial Panel on Multidistrict Litigation.

6 15. Narrowing of Issues:

7 At this time, there are no dispositive or partially dispositive issues appropriate for decision
8 by motion or by agreement known by Defendants.

9 16. Expedited Schedule:

10 Defendants believe that this case is not the type of case that can be handled on an expedited
11 basis with streamlined procedures.

12 17. Scheduling:

13 Defendants propose discovery cutoff to be 30 days before trial. Given Plaintiff pro se's
14 representation of anticipated, extensive written discovery and depositions, Defendants estimate
15 completing written discovery by December 2008, completing depositions by March 2009, and
16 completing expert discovery, if needed, by May 2008.

17 18. Trial:

18 Defendants have made a demand for jury trial. At this time, Defendants estimate a twenty
19 court-day trial.

20 19. Disclosure of Non-party Interested Entities or Persons:

21 Defendant Wong files the Certification of Interested Entities or Persons concurrently. No
22 such interest known is by Defendant Wong at this time.

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 20. Other Matters As May Facilitate the Just, Speedy, and Inexpensive Disposition of
2 This Matter:

3 To Defendants' knowledge, there are no such other matters at this time.

4
5 Dated: August 29, 2008

6 Respectfully submitted,

7 EDMUND G. BROWN JR.
8 Attorney General of the State of California

9 MIGUEL A. NERI
10 FIEL D. TIGNO
11 Supervising Deputy Attorneys General

12 /s/LILLIAN Y. TABE

13 LILLIAN Y. TABE
14 Deputy Attorney General
15 Attorneys for Defendants
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EXHIBIT A

In accordance with Civ. L.R. 16-4, lead trial counsel who will try this case are directed to confer in advance of the Case Management Conference with respect to all matters contained in the attached Proposed Joint Case Management Order and all other matters described in Rule 16(a), (b) and (c) and Civ. L.R. 16-8(b). Counsel shall complete the attached Order and file same not less than ten (10) days in advance of the Conference. If additional space is needed, please attach a separate sheet. Plaintiff's counsel shall bear the responsibility for convening all counsel and completing and filing the Order.

Each party shall be represented at the Scheduling Conference by the lead counsel who will try the case and be prepared to discuss all matters referred to in the preceding paragraph. Counsel shall have authority to enter stipulations and make admissions regarding all matters described herein.

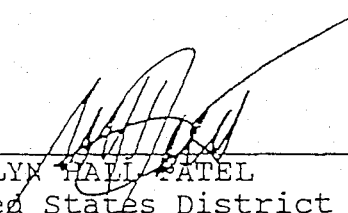
PLAINTIFF IS DIRECTED TO SERVE COPIES OF THIS ORDER AT ONCE UPON ALL PARTIES IN THIS ACTION AND UPON THOSE SUBSEQUENTLY JOINED IN ACCORDANCE WITH THE PROVISIONS OF RULES 4 AND 5, FEDERAL RULES OF CIVIL PROCEDURE AND CIV. L.R. 4 AND 5, and to file with the Clerk of the Court a Certificate reflecting such service.

Counsels' appearance at the Scheduling Conference may be excused by leave of court (a phone request to the Courtroom Deputy is necessary) if this matter has been referred to Arbitration, in which case the attached order shall be filed and shall set forth the arbitration status of the case including the date scheduled for hearing, if any has been set, and the continuances which have been granted.

Case Management Conferences and other nondispositive matters may be heard by telephone, if all the parties agree and with approval of the court. Counsel should advise the Courtroom Deputy ten (10) days in advance of the scheduled hearing date of this preference.

MOTIONS TO DISMISS SHALL NOT BE FILED BEFORE THE INITIAL CASE MANAGEMENT CONFERENCE EXCEPT BY LEAVE OF COURT.

***FAILURE TO COMPLY WITH THIS ORDER or the provisions of Fed. R. Civ. P. 16 may be deemed sufficient grounds for dismissal of this cause, default or other appropriate sanctions. (See Rule 16(f)).



MARILYN HALL PATEL
United States District Judge

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

CASE NO.

JOINT CASE MANAGEMENT STATEMENT
AND PROPOSED ORDER

CASE MANAGEMENT CONFERENCE

DATE:

TIME:

Pursuant to this Court's Civil Local Rules ("Civ. L.R.") 16-7 and 16-8, the parties jointly submit this Case Management Statement and Proposed Order. Each party certifies that its lead trial counsel who will try this case met and conferred for the preparation of this Statement as required by Civ. L.R.16-4.

The parties make the following representations and recommendations:

CASE MANAGEMENT ORDER

The foregoing joint statement as amended is adopted by this court as the Case Management Order in this action in accordance with Civil Local Rule 16 and other applicable Local Rules; and shall govern all further proceedings in this action.

IT IS SO ORDERED.

Dated:

MARILYN HALL PATEL
United States District Judge

Addendum IMotion Preparation

These rules also apply to motions for summary judgment, preliminary injunction or other motions requiring evidentiary submissions. The parties shall meet and confer to resolve all evidentiary issues. Those that cannot be resolved shall be handled in the following manner.

In connection with motions, the exhibits shall be submitted with a cover sheet listing all exhibits. Opposing counsel shall indicate on the list their objections, if any, by use of a keyed system. The keyed system referred to in these instructions may designate the objection by number or name and shall include an index to the keys or codes unless the number or name is self-evident. For example, a Rule 403, Federal Rules of Civil Procedure, objection may be noted by R.403; an objection that a deposition question assumed facts not in evidence might be referred to as "AF" with the index identifying each such code.

Depositions used in connection with a motion shall be filed at the time the oppositions are filed and shall be marked as follows. The entire deposition shall be submitted (if deposition is in one volume; otherwise only the volume containing designated portions shall be provided), one copy only, tabbed as necessary or otherwise marked. Objections shall be noted in the margin by use of a keyed system. This will provide the court with one deposition together with the objections of all the parties appearing on the face of the designated extract.

Separate motions to strike shall not be filed.

Filing of Undisputed Statements of Fact**Attention: FILING OF STATEMENTS OF UNDISPUTED FACTS**

The parties are hereby advised that in all proceedings where a statement of undisputed facts is to be filed, ONLY ONE JOINT STATEMENT, SIGNED BY ALL PARTIES, SHALL BE FILED. Separate statements of undisputed facts are unacceptable, and FAILURE TO FILE ONE JOINT STATEMENT WILL RESULT IN THE STRIKING OF PLEADINGS OR OTHER APPROPRIATE SANCTIONS. If the parties are unable to agree that a fact is undisputed, then that fact is in dispute.

Addendum II

Trial Preparation

All exhibits and all depositions to be used at trial in lieu of live testimony shall be designated prior to trial. The parties shall meet and confer on all objections to deposition designations and counter-designations and all objections to exhibits in order to resolve evidentiary matters in advance of pretrial.

Parties shall make a good faith effort to stipulate exhibits into evidence and be prepared to place their admission on the record at pretrial. If admission or stipulation is not possible, the parties shall make every effort to stipulate to authenticity and foundation absent a legitimate (not tactical) objection.

The exhibit lists filed with the court in advance of pretrial shall reflect these stipulations and objections by use of a keyed system. The keyed system referred to in these instructions may designate the objection by number or name and shall include an index to the keys or codes unless the number or name is self-evident. For example, a Rule 403, Federal Rules of Civil Procedure, objection may be noted by R.403; an objection that a deposition question assumed facts not in evidence might be referred to as "AF with the index identifying each such code.

One copy of each deposition to be used in lieu of live testimony shall be highlighted or otherwise marked to indicate designations and counter-designations. Objections shall be noted in the margin of the copy by a keyed system as noted above. Objections will be ruled on at the time of pretrial. Therefore, these materials must be filed no later than the date on which the pretrial statement is due.

Addendum IIIPreparation of Jury Instructions

Jury instructions will be settled at the time of pretrial. Therefore, all jury instructions shall be submitted with the pretrial filings. In advance of these filings the parties shall do the following:

1. Meet and confer and resolve all jury instructions to the extent possible. Parties are expected to resolve technical or semantic differences.
2. Prepare one joint set of instructions upon which the parties agree.
3. The parties shall submit separately only those instructions upon which there is substantive disagreement. Prior to the required filing date copies of these instructions shall be exchanged and the party or parties objecting to the instruction shall note the basis for the objection on the face of the instruction. Instructions with the objections noted thereon shall be filed with the court by the date of the pretrial filings.
4. An original and two copies of the agreed-upon joint instructions and the separate instructions with objections shall be filed on or before the date for filing the joint pretrial statement and other pretrial materials.
5. The parties shall be prepared to submit three clean copies of instructions without citations, titles, or attribution on or before the date trial commences.

1 A. JOINT STATEMENT OF FACTS AND EVENTS UNDERLYING THE ACTION

14 B. PRINCIPAL ISSUES

15 1. The principal factual issues that the parties dispute are:

16 a.

18 b.

20 c.

22 2. The principal legal issues that the parties dispute are:

23 a.

25 b.

27 c.

3. The following issues as to service of process, personal jurisdiction, subject matter jurisdiction, or venue remain unresolved:

4. The following parties have not yet been served:

5. Any additional parties that a party intends to join are listed below:

<u>Party</u>	<u>Additional Parties</u>	<u>Deadline</u>
--------------	---------------------------	-----------------

6. Any additional claims that a party intends to add are listed below:

<u>Party</u>	<u>Additional Claims</u>	<u>Deadline</u>
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C. ALTERNATIVE DISPUTE RESOLUTION (Choose one of the following three options.)

☐ This case already has been assigned or the parties have agreed to use the following court sponsored or other ADR procedure (please list the provider if other than the court):

Date by which ADR session to be commenced: _____

Date by which ADR session to be completed: _____

☐ The parties have been unable to agree on an ADR procedure. The party[ies] listed below believes that the case is appropriate for the ADR procedure indicated:

☐ All parties share the view that no ADR procedure should be used in this case. The specific basis for that view is set forth below:

~~The~~ parties make the following additional suggestions concerning settlement:

The Court hereby orders: _____

D. CONSENT TO JURISDICTION BY A MAGISTRATE JUDGE

Parties consent to a jury or court trial presided over by a magistrate judge ☐ yes
☐ no

The Court hereby refers this case for the following purposes to a magistrate judge:

E. DISCLOSURES

The parties certify that they have made the following disclosures:

1. Persons disclosed pursuant to Civ. L.R. 16-5:

a. Disclosed by _____

(1)

(2)

(3)

(4)

b. Disclosed by _____:

(1)

(2)

(3)

1 (4)

2 c. Disclosed by _____:

3 (1)

4 (2)

5 (3)

6 (4)

7 2. Categories of documents disclosed under Civ. L.R. 16-5 or produced through formal
8 discovery:

9 a. Categories of documents disclosed by _____:

10 (1)

11 (2)

12 (3)

13 (4)

14 b. Categories of documents disclosed by _____:

15 (1)

16 (2)

17 (3)

18 (4)

19 c. Categories of documents disclosed by _____:

20 (1)

21 (2)

22 (3)

23 (4)

24
25 3. Each party who claims an entitlement to damages or an offset sets forth the following
26 preliminary computation of the damages or of the offset:
27
28

4. All insurance policies as defined by Fed. R. Civ. P. 26(a)(1)(D) have been disclosed as follows:

<u>Party</u>	<u>Type of Policy and Policy No.</u>	<u>Policy Limits</u>
--------------	--------------------------------------	----------------------

5. The parties will disclose the following additional information by the date listed:

<u>Party</u>	<u>Disclosure</u>	<u>Deadline</u>
--------------	-------------------	-----------------

6. Disclosures as required by Fed. R. Civ. P. 26(e) will be supplemented at the following intervals:

F. EARLY FILING OF MOTIONS

The following motions expected to have a significant effect either on the scope of discovery or other aspects of the litigation shall be heard by the date specified below:

<u>Moving Party</u>	<u>Nature of Motion</u>	<u>Hearing Date</u>
---------------------	-------------------------	---------------------

G. DISCOVERY

1. The parties have conducted or have underway the following discovery:

1 2. The parties have negotiated the following discovery plan:
2
3
4
5
6
7
8
9

10 3. Limitations on discovery tools in accordance with Civ. L. R. 30-1, 33-1 (specify
11 number):

12 a. depositions (excluding experts) by:

13 plaintiff(s): _____ defendant(s): _____

14 b. interrogatories served by:

15 plaintiff(s): _____ defendant(s): _____

16 c. document production requests served by:

17 plaintiff(s): _____ defendant(s): _____

18 d. requests for admission served by:

19 plaintiff(s): _____ defendant(s): _____

20 4. The parties agree to the following limitations on the subject matter of discovery:
21
22
23
24

25 5. Discovery from experts. The parties plan to offer expert testimony as to the
26 following subject matter(s):
27
28

6. The Court orders the following additional limitations on the subject matter of discovery: _____

7. Deadlines for disclosure of witnesses and completion of discovery:

a. disclosure of identities of all witnesses to be called in each party's case-in-chief:

plaintiff(s): _____

defendant(s): _____

b. completion of all discovery except from experts (see Civ. L.R. 26-5):

c. disclosure of identities, resumes, final reports and all other matters required by Fed. R. Civ. P. 26(a)(2):

plaintiff(s): _____

defendant(s): _____

d. completion of discovery from experts (see Civ. L.R. 26-5):

H. PRETRIAL AND TRIAL SCHEDULE

1. Trial date: _____

2. Anticipated length of trial (number of days): _____

3. Type of trial: jury court

4. Final pretrial conference date: _____

- 1 5. Date required for filing the joint pretrial conference statement and proposed pretrial
2 order required by Civ. L.R. 16-9(b), complying with the provisions of Civ. L.R. 16-
3 8(b)(7)-(10) and such other materials as may be required by the assigned judge:

- 4 _____
5 _____
6 6. Date for filing objections under Civ. L.R. 16-8(b)(11) (objections to exhibits or
7 testimony): _____

- 8 7. Deadline to hear motions directed to the merits of all or part of the case:
9 _____

10
11 NOTE: Lead trial counsel who will try this case shall meet and confer at least 30 days prior to the
12 pretrial conference for the purposes of Civ. L.R. 16-9(a) which includes preparation of the joint
13 pretrial conference statement and all other materials required by § H.5 above. Lead trial counsel
14 shall also be present at the pretrial conference. (See Fed. R. Civ. P. 16(d).)

15 I. Date of next case management/status conference: _____

16 J. OTHER MATTERS

17
18
19
20 K. IDENTIFICATION AND SIGNATURE OF LEAD TRIAL COUNSEL

21 Identify by name, address and phone number, lead trial counsel for each party.
22
23

24 The court finds that each party was represented by lead trial counsel responsible for trial of
25 this matter and was given an opportunity to be heard as to all matters encompassed by this Case
26 Management Statement and Proposed Order filed prior to the conference.
27
28

TRIAL REQUIREMENTS

For Matters Before the Honorable Marilyn Hall Patel

PRE-TRIAL SUBMISSIONS:

The following should be prepared:

- (a) Pretrial Statement in accordance with Local Rule 16-9(b)
- (b) Any trial briefs
- (c) Motions in Limine---which should be contained in **one document**
- (d) Jury Instructions:
 - 1 set contains agreed to instructions
 - 1 set contains disputed instructions
- (e) Proposed Jury Voir Dire
- (f) Proposed Verdict Form
- (g) Proposed Findings of Facts and Conclusions of Law, if applicable

TRIAL EXHIBITS:

A special form is used in preparing the Exhibit List which has been attached to these instructions. Counsel are to supply all the requested information with the exception of the two dates boxes.

Exhibits are to be properly marked with exhibits tags stapled to the upper lefthand corner. If photo or chart is being used as an exhibit the exhibit tag should be placed on the back side of the exhibit.

A binder containing a copy of each side's exhibits is to be provided for Judge Patel on the day of trial. Each exhibit is to be designated with a label divider and not an exhibit tag. The only exhibits which are tagged are those exhibits which will be admitted into evidence.

There should be no duplication of exhibits between the plaintiffs' and defendants' exhibits.

Marking of Trial Exhibits: Counsel should fill in the appropriate markers (note: one half of the sheet is designated plaintiff, the other defendant). Please leave the date entered blank. Plaintiff's exhibits should be denoted with numbers: 1, 2, 3, etc. While Defendant's Exhibits should be denoted as: A-1, A-2, A-3, etc. Should there be multiple parties, each party should use a different letter from the alphabet to designate their respective group of exhibits: ___-1, ___-2, ___-3, etc.

ADDITIONAL ITEMS TO BRING TO TRIAL:

Please be sure to bring 6 copies of your Exhibit List.

A glossary would be helpful setting forth the names of the witnesses and any unusual terms that may come up during trial.

Be sure to bring the original and a clean copy of any deposition(s) your office has taken of any witnesses, who will be called to testify at trial. The original deposition will be handed to the Court during testimony, and the clean copy of the given to the witness during examination.

PLEASE NOTE:

Should a daily transcript be desired, arrangements will need to be made with Robert Stuart, Supervisor Court Reporting Services: (415) 522-2079 -- at least 10 days in advance of the trial date.

If any video or tape recording equipment or demonstrative devices will be used, a signed order will need to be obtained in advance of the trial date for the items to clear security.

If you have any questions regarding these instructions please contact Terry Carroll, Courtroom Deputy to Judge Patel, at: (415) 522-2034.

FOR THE NORTHERN DISTRICT OF CALIFORNIA

Date: _____

VS. _____

☐ PLAINTIFF'S ☐ DEFENDANT'S

EXHIBIT LIST

EXHIBIT

NUMBER

Date Marked / Date Admitted

DESCRIPTION

[illegible]

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Case Number: _____

PLAINTIFF'S Exhibit No.: _____

Date Admitted: _____

By: _____
Deputy Clerk

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Case Number: _____

PLAINTIFF'S Exhibit No.: _____

Date Admitted: _____

By: _____
Deputy Clerk

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Case Number: _____

PLAINTIFF'S Exhibit No.: _____

Date Admitted: _____

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By: _____
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Case Number: _____

PLAINTIFF'S Exhibit No.: _____

Date Admitted: _____

By: _____
Deputy Clerk

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Case Number: _____

DEFENDANT'S Exhibit No.: _____

Date Admitted: _____

By: _____
Deputy Clerk

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Case Number: _____

DEFENDANT'S Exhibit No.: _____

Date Admitted: _____

By: _____
Deputy Clerk

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Case Number: _____

DEFENDANT'S Exhibit No.: _____

Date Admitted: _____

By: _____
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

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NORTHERN DISTRICT OF CALIFORNIA

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Date Admitted: _____

By: _____
Deputy Clerk

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Case Number: _____

DEFENDANT'S Exhibit No.: _____

Date Admitted: _____

By: _____
Deputy Clerk

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Case Number: _____

DEFENDANT'S Exhibit No.: _____

Date Admitted: _____

By: _____
Deputy Clerk

CIVIL JURY INSTRUCTIONS

(from Ninth Circuit Manual of Model Jury Instructions, 1993 Ed.)

The following preliminary instructions will be given before opening statements:

- 1.01
- 1.02
- 1.03
- 1.04
- 1.05
- 1.06
- 1.07
- 1.08
- 1.09
- 1.10
- 1.11
- 1.12
- 1.13

Instructions in Chapter 1 (2.01 et seq.) will be given during trial as applicable.

The following instructions will be given at the close of the evidence and before arguments:

- 3.01
- 3.02
- 3.03
- 3.05
- 3.06
- 3.07
- 3.08 (as applicable)
- 3.10 "
- 3.11 "
- 3.12 "

The following instructions will be given at the close of arguments and immediately before deliberations:

- 3.14
- 3.15
- 3.13

DECLARATION OF SERVICE BY U.S. MAIL

Case Name: *John Hsu v. California Department of Toxic Substances Control, et al.*

No.: **U.S. District Court, Northern District of California, Case No. C08-02586 MHP**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On August 29, 2008, I served the attached **DEFENDANTS' CASE MANAGEMENT CONFERENCE STATEMENT** by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at P.O. Box 70550, Oakland, CA 94612-0550, addressed as follows:

John Hsu
P.O. Box 1255
Berkeley, CA 94701

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on August 29, 2008, at Oakland, California.

Teresa E. Dueñas

Declarant

/s/Teresa Dueñas

Signature